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ABSTRACT

This document consists of the guidelines of the National Education Association, for use in school districts, colleges, and universities, and of a statement concerning them. The guidelines address such issues as (1) whether students or school employees who have or could transmit Acquired Immune Deficiency Syndrome (AIDS) should be permitted to remain in the school setting, (2) whether a school employer should be able to require a student or school employee to be tested for AIDS; (3) whether a school employee should be required to teach or provide other personal contact services to an AIDS infected student and (4) whether information about the condition of an AIDS infected student or school employee should be made available to others. The guidelines are consistent with recommendations made by the Federal Center for Disease Control. Specifically, the guidelines do not advocate the categorical admission or exclusion of AIDS infected students, but provide rather for this determination to be made on a case-by-case basis by a team consisting of public health personnel, the student's physician and parents, and appropriate school personnel. A similar case-by-case determination is recommended with regard to the continued employment of school employees who have or could transmit AIDS. The guidelines also seek to protect the legitimate privacy rights of students and school employees. The guidelines require that excluded students be afforded an adequate alternative education. (DB)

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Recommended Guidelines for Dealing with AIDS in the Schools

NEA Communications News
Statement Regarding NEA Guidelines

National Education Association
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Washington, DC 20036-3290

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For Immediate Release

STATEMENT REGARDING NEA GUIDELINES
FOR DEALING WITH AIDS IN THE SCHOOLS

The NEA Board of Directors has adopted the attached guidelines for dealing with the problem of AIDS (Acquired Immune Deficiency Syndrome) in the public schools.

The guidelines, which will be recommended to NEA's affiliates for use in school districts, colleges and universities, address various matters, including whether and under what circumstances (1) students or school employees who have or could transmit AIDS should be permitted to remain in the school setting; (2) a school employer should be able to require a student or school employee to be tested for AIDS; (3) a school employee should be required to teach or provide other personal contact services to an AIDS infected student; and (4) information about the condition of an AIDS infected student or school employee should be made available to others. Although the guidelines indicate the approach that NEA believes should be taken with regard to the above matters, they do not attempt to

take a position on each and every relevant question. Many questions are left unanswered, and properly should be addressed at the local level as part of the implementation process.

The NEA Guidelines are consistent with the recommendations made by the federal Centers for Disease Control for dealing with AIDS infected students. Specifically, the guidelines do not advocate the categorical admission or exclusion of AIDS infected students, but provide rather for this determination to be made on a case-by-case basis by a team consisting of public health personnel, the student's physician and parents, and appropriate school personnel. (The only exception is for a limited category of infected students who for certain reasons pose a greater than normal risk of AIDS transmission: the guidelines recommend that such students be excluded.) The NEA guidelines recommend that a similar case-by-case determination be made with regard to the continued employment of school employees who have or could transmit AIDS. The guidelines also seek to protect the legitimate privacy rights of students and school employees, and to provide appropriate guarantees for those individuals who are not permitted to remain in the school setting. Excluded students, for example, are to be afforded an adequate alternative education.

NEA President Mary Futrell stated that ''the NEA guidelines are designed to strike a balance between the right of an AIDS victim to an education or continued employment, and the right of other students and school employees to be free from the risk of exposure to a fatal disease.'' She added that the guidelines are based on existing medical information regarding AIDS, and will be reviewed periodically as new information becomes available.

RECOMMENDED GUIDELINES
FOR DEALING WITH AIDS
IN THE SCHOOLS

Every school district, college and university should establish guidelines for dealing with the problems presented by students and school employees who have or could transmit AIDS to other students or school employees. The recognized employee organization should be involved in the development of these guidelines, and any dispute as to their meaning or application should be subject to the appropriate grievance/arbitration procedure. The guidelines should be reviewed periodically, and revised as necessary to reflect new medical information regarding AIDS.

On the basis of presently available medical information, NEA recommends the following guidelines (the terms "infected student," "infected school employee," and "infected individual" are used in these guidelines to apply both to persons who have been diagnosed as having AIDS and to persons who are "asymptomatic carriers," i.e., those who have been infected by the AIDS virus and are capable of transmitting it but who have not developed any of the symptoms of AIDS):

1. (a) Infected neurologically handicapped students who lack control of their bodily secretions, or who display behavior such as biting, vomiting, etc.,[1] and infected students who have uncoverable, oozing lesions, shall not be permitted to attend classes or participate in school activities with other students.

   (b) The determination of whether an infected student who is not excluded pursuant to Section 1(a) above shall be permitted to attend classes or participate in school activities with other students shall be made on

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[1]This refers to infected students who suffer from a disorder of the nervous system that is the cause of the indicated symptoms. For further definition, see federal Centers for Disease Control recommendations regarding education of children infected with AIDS, printed in Morbidity and Mortality Weekly Report, August 30, 1985, Vol. 34, No. 34.

a case-by-case basis by a team composed of public health personnel, the student's physician, the student's parents or guardian, and appropriate school personnel, which shall include the infected student's primary teacher(s). In making this determination, the team shall consider: (1) the behavior, neurological development, and physical condition of the student; (2) the expected type of interaction with others in the school setting; and (3) the impact on both the infected student and others in that setting.

(c) The determination of whether an infected school employee should be permitted to remain employed in a capacity that involves contact with students or other school employees shall be made on a case-by-case basis by a team composed of public health personnel, the school employee's physician, the school employee and/or his/her representative, and appropriate school personnel. In making this determination, the team shall consider: (1) the physical condition of the school employee; (2) the expected type of interaction with others in the school setting; and (3) the impact on both the infected school employee and others in that setting.

2. (a) If a school employer has reasonable cause to believe that a student or school employee is an infected individual,[2] the school employer may require said individual to submit to an appropriate medical evaluation.

(b) The sexual orientation of a student or school employee shall not constitute reasonable cause to believe that he or she is an infected individual. No student, school employee or potential school employee shall be required to provide information as to his or her sexual orientation.

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[2] "Reasonable cause" would exist, for example, if the spouse of a school employee has AIDS, or if a school employee recently has given birth to a child who has AIDS.

3. (a) If an infected student in grades K through 12 is not permitted to attend classes or participate in school activities with other students, the school employer shall make every reasonable effort to provide said student with an adequate alternative education. To the extent that this requires personal contact between the student and school employees, only those school employees who volunteer shall be utilized.

   (b) If the employment of an infected school employee is discontinued, said school employee shall be entitled to use any available medical leave and[3] receive any available medical disability benefits.

4. A school employee shall not be required to teach or provide other personal contact services to an infected student, or to work with an infected school employee, unless a determination has been made pursuant to Section 1 above to permit said individual to remain in the school setting. NEA and its affiliates shall provide appropriate legal assistance to any school employee who is subjected to adverse action by a school employer because he or she refuses to teach, provide personal contact services to, or work with an infected individual, or an individual who there is reasonable cause to believe is an infected individual, unless a determination has been made pursuant to Section 1 above to permit said individual to remain in the school setting.

5. The identity of an infected individual or an individual who there is reasonable cause to believe is an infected individual shall not be publicly revealed. If an infected individual is permitted to remain in the school setting after a determination has been made pursuant to Section 1 above, school employees who are likely to have regular personal contact with said individual shall be informed of his or her identity by

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[3] NEA affiliates should review their state retirement systems and other disability income programs and, if necessary, seek to amend them to provide appropriate coverage for school employees who have AIDS.

the school employer, and provided with appropriate information as to said individual's medical condition, including information as to any factors that might warrant a reconsideration of whether he or she should be permitted to remain in the school setting.

October 9, 1985